



February 23, 2007

SENATE BILL No. 208

DIGEST OF SB 208 (Updated February 21, 2007 3:48 pm - DI 104)

Citations Affected: IC 12-10.

Synopsis: Long term care screening and counseling program. Requires an individual to receive prior approval from the office of Medicaid policy and planning before being admitted to a nursing facility under certain circumstances. Replaces the nursing facility preadmission screening program with the long term care screening and counseling program (program). Specifies the services provided in the program. Repeals provisions that: (1) established a penalty for not participating in preadmission screening before entering a skilled health facility; (2) allowed for the designation of a person to approve temporary admittance to a nursing facility under certain circumstances; and (3) stated that an individual is not eligible for Medicaid if the eligible refuses to participate in the nursing facility preadmission screening program.

Effective: July 1, 2007.

Dillon

January 8, 2007, read first time and referred to Committee on Health and Provider Services.
February 22, 2007, amended, reported favorably — Do Pass.

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SB 208—LS 7156/DI 104+



February 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 208

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-10-12-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this
3 chapter, "designee" refers to an ~~individual who~~ **entity that** is
4 designated by the ~~director of the agency under section 27 of this~~
5 ~~chapter:~~ **division.**
- 6 SECTION 2. IC 12-10-12-6 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. If an individual: ~~who~~
8 ~~is discharged from a hospital licensed under IC 16-21-~~
9 (1) is admitted to a nursing facility after the individual has been
10 screened under the nursing facility preadmission program
11 described in this chapter; and
12 (2) is eligible for participation in the federal Medicaid program;
13 prior approval of the individual's admission to the nursing facility may
14 ~~not~~ be required by the office under IC 12-15-21-1 through
15 IC 12-15-21-3.
- 16 SECTION 3. IC 12-10-12-7 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) An individual or

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the individual's parent or guardian, if the individual is not competent, who is required to be screened and approved under this chapter shall apply ~~to the agency serving the county of the individual's residence in the manner and location required by the division~~ for participation in a nursing facility preadmission screening program.

(b) The individual or the individual's parent or guardian if the individual is not competent shall provide the ~~agency with the~~ following:

(1) The individual's name.

(2) The address of the place where the screening team described in section 14 of this chapter may contact the individual.

SECTION 4. IC 12-10-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The notification required under section 8 of this chapter must notify the applicant of the following:

(1) That the applicant is required under state law to apply ~~to the agency serving the county of the applicant's residence~~ for participation in a nursing facility preadmission screening program.

(2) That the applicant's failure to participate in the nursing facility preadmission screening program could result in the applicant's ineligibility for Medicaid reimbursement for per diem in any nursing facility for not more than one (1) year.

(3) That the nursing facility preadmission screening program consists of an assessment of the applicant's need for care in a nursing facility made by a team of individuals familiar with the needs of individuals seeking admission to nursing facilities.

(b) The notification must be signed by the applicant or the applicant's parent or guardian if the applicant is not competent before admission.

(c) If the applicant is admitted:

(1) the nursing facility shall retain one (1) signed copy of the notification for one (1) year; and

(2) the nursing facility shall deliver one (1) signed copy to the ~~agency serving the county in which the applicant resides: division or the division's designee.~~

(d) A person who violates this section commits a Class A infraction.

SECTION 5. IC 12-10-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) A screening team must consist of two (2) members.

(b) An applicant's physician shall participate as a member of the screening team.

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(c) The ~~agency that serves the county of the applicant's residence shall; subject to the approval of the division, or the division's designee~~ **subject to the approval of the division, shall also** appoint an individual who

(1) ~~represents the agency serving the area in which the applicant's residence is located; and~~

(2) ~~is familiar with personal care assessment.~~

(d) The ~~agency shall; division, or the division's designee~~ subject to the approval of the division, **shall** appoint one (1) of the individuals under subsection (c) to be the coordinator.

SECTION 6. IC 12-10-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The office shall do the following:

(1) Review a screening team's finding.

(2) Make the final determination only in the following cases:

(A) Where the individual is eligible for Medicaid.

(B) Members of the screening team disagree.

(C) A placement is denied.

(D) Whenever prior approval is required under section 6 of this chapter.

SECTION 7. IC 12-10-12-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The ~~agency~~ **division or the division's designee** shall provide the applicant with a written notice of the office's determination made under section 18 of this chapter if the placement is appropriate. The office shall provide written notice of a determination made under section 16 of this chapter when placement in a nursing facility is denied.

(b) If the office determines that an individual's placement in a nursing facility is not appropriate, the written notice must contain the following:

(1) The reasons for the office's determination.

(2) A detailed description of services available to the individual that, if used by the individual, make the placement of the individual in a nursing facility inappropriate.

SECTION 8. IC 12-10-12-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. An applicant may apply to the office for a waiver of the sanctions imposed by section 33 ~~or 34~~ of this chapter if the following conditions are met:

(1) The applicant has made an appropriate application under section 7 of this chapter.

(2) The office has not provided the applicant with the notice required under section 20 of this chapter within twenty-five (25)

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days of the date the application was made under section 7 of this chapter.

(3) The applicant, the applicant's physician, and the applicant's current custodian have cooperated with the screening team.

SECTION 9. IC 12-10-12-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. If the office finds that an applicant has filed an application for a waiver and has met the three (3) conditions set out in section 23 of this chapter, the office shall, not later than the second working day following the receipt of the application for a waiver, either:

(1) issue the notice required by section 20 of this chapter; or

(2) waive the sanctions imposed by ~~sections~~ **section 33 and 34** of this chapter.

SECTION 10. IC 12-10-12-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) The ~~agency shall, subject to the approval of the~~ division **may** designate at least one (1) individual who may authorize temporary admittance to a nursing facility under:

(1) subsection (b); and

(2) sections 28, 30, and 31 of this chapter;

without the approval required under this chapter.

(b) An individual designated under subsection (a) may authorize temporary admittance to a nursing home for a resident of Indiana if the resident:

(1) has received treatment from and is being discharged from a hospital that is located in a state other than Indiana; and

(2) will be participating in preadmission screening under this chapter.

(c) Notwithstanding a rule adopted under section 12 of this chapter, a screening team appointed to screen a nonresident under this section must:

(1) conduct its assessment under section 16 of this chapter; and

(2) report its findings;

within ten (10) days after its appointment.

SECTION 11. IC 12-10-12-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) An individual may be admitted to a nursing facility if the ~~division or the division's~~ designee determines that it is probable that the individual will be discharged from the nursing facility within thirty (30) days of the individual's admission.

(b) If the individual:

(1) desires to remain in a nursing facility for more than thirty (30)

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1 days; and

2 (2) applies for approval under this chapter before the expiration
3 of the thirty (30) days;
4 the individual has an additional twenty-five (25) days in which to
5 obtain the approval.

6 SECTION 12. IC 12-10-12-31 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. An individual who
8 has applied for approval under this chapter may be admitted before
9 approval is granted if the **division or the division's** designee
10 determines that there will be serious harm to the physical or mental
11 health of the individual if the individual is required to wait for
12 approval.

13 SECTION 13. IC 12-10-12-33 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. If an individual:

15 (1) does not participate in the health facility preadmission
16 screening program described in this chapter; or

17 (2) participates in the health facility preadmission screening
18 program described in this chapter and is notified under section 20
19 of this chapter that the individual's placement in a health facility
20 is not appropriate;

21 the individual is not eligible for assistance under the federal Medicaid
22 program (42 U.S.C. 1396 et seq.) for the payment of any part of the
23 cost per diem provided to the individual in a part of a health facility
24 ~~certified as an intermediate care facility~~ for one (1) year after the date
25 of the individual's admission to the health facility.

26 SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE
27 JULY 1, 2007]: IC 12-10-12-1; IC 12-10-12-34.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 208, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-10-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this chapter, "designee" refers to an ~~individual who~~ **entity that** is designated by the ~~director of the agency under section 27 of this chapter.~~ **division.**".

Page 1, line 2, after "individual" insert ":"

Page 1, line 2, strike "who".

Page 1, strike line 3.

Page 1, line 8, reset in roman "may".

Page 1, line 9, reset in roman "be".

Page 1, line 9, delete "is".

Page 1, line 9, delete ".".

Page 1, line 9, reset in roman "under IC 12-15-21-1 through".

Page 1, reset in roman line 10.

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 3. IC 12-10-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) An individual or the individual's parent or guardian, if the individual is not competent, who is required to be screened and approved under this chapter shall apply ~~to the agency serving the county of the individual's residence in the manner and location required by the division~~ for participation in a nursing facility preadmission screening program.

(b) The individual or the individual's parent or guardian if the individual is not competent shall provide the ~~agency with the~~ following:

(1) The individual's name.

(2) The address of the place where the screening team described in section 14 of this chapter may contact the individual.

SECTION 4. IC 12-10-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The notification required under section 8 of this chapter must notify the applicant of the following:

(1) That the applicant is required under state law to apply ~~to the~~ **agency serving the county of the applicant's residence** for

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participation in a nursing facility preadmission screening program.

(2) That the applicant's failure to participate in the nursing facility preadmission screening program could result in the applicant's ineligibility for Medicaid reimbursement for per diem in any nursing facility for not more than one (1) year.

(3) That the nursing facility preadmission screening program consists of an assessment of the applicant's need for care in a nursing facility made by a team of individuals familiar with the needs of individuals seeking admission to nursing facilities.

(b) The notification must be signed by the applicant or the applicant's parent or guardian if the applicant is not competent before admission.

(c) If the applicant is admitted:

(1) the nursing facility shall retain one (1) signed copy of the notification for one (1) year; and

(2) the nursing facility shall deliver one (1) signed copy to the ~~agency serving the county in which the applicant resides:~~ **division or the division's designee.**

(d) A person who violates this section commits a Class A infraction.

SECTION 5. IC 12-10-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) A screening team must consist of two (2) members.

(b) An applicant's physician shall participate as a member of the screening team.

(c) ~~The agency that serves the county of the applicant's residence shall, subject to the approval of the division, or the division's designee subject to the approval of the division, shall also appoint an individual who~~

~~(1) represents the agency serving the area in which the applicant's residence is located; and~~

~~(2) is familiar with personal care assessment.~~

(d) ~~The agency shall,~~ **division, or the division's designee** subject to the approval of the division, **shall** appoint one (1) of the individuals under subsection (c) to be the coordinator."

Page 1, line 15, reset in roman "only".

Page 2, delete lines 4 through 19, begin a new paragraph and insert:

"SECTION 6. IC 12-10-12-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) ~~The agency~~ **division or the division's designee** shall provide the applicant with a written notice of the office's determination made under section 18 of this chapter if the placement is appropriate. The office shall provide

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written notice of a determination made under section 16 of this chapter when placement in a nursing facility is denied.

(b) If the office determines that an individual's placement in a nursing facility is not appropriate, the written notice must contain the following:

- (1) The reasons for the office's determination.
- (2) A detailed description of services available to the individual that, if used by the individual, make the placement of the individual in a nursing facility inappropriate."

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 8. IC 12-10-12-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) The ~~agency shall, subject to the approval of the~~ division **may** designate at least one (1) individual who may authorize temporary admittance to a nursing facility under:

- (1) subsection (b); and
- (2) sections 28, 30, and 31 of this chapter;

without the approval required under this chapter.

(b) An individual designated under subsection (a) may authorize temporary admittance to a nursing home for a resident of Indiana if the resident:

- (1) has received treatment from and is being discharged from a hospital that is located in a state other than Indiana; and
- (2) will be participating in preadmission screening under this chapter.

(c) Notwithstanding a rule adopted under section 12 of this chapter, a screening team appointed to screen a nonresident under this section must:

- (1) conduct its assessment under section 16 of this chapter; and
- (2) report its findings;

within ten (10) days after its appointment.

SECTION 9. IC 12-10-12-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) An individual may be admitted to a nursing facility if the **division or the division's** designee determines that it is probable that the individual will be discharged from the nursing facility within thirty (30) days of the individual's admission.

(b) If the individual:

- (1) desires to remain in a nursing facility for more than thirty (30) days; and
- (2) applies for approval under this chapter before the expiration

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of the thirty (30) days;
the individual has an additional twenty-five (25) days in which to obtain the approval.

SECTION 10. IC 12-10-12-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. An individual who has applied for approval under this chapter may be admitted before approval is granted if the **division or the division's** designee determines that there will be serious harm to the physical or mental health of the individual if the individual is required to wait for approval.

SECTION 11. IC 12-10-12-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. If an individual:

- (1) does not participate in the health facility preadmission screening program described in this chapter; or
- (2) participates in the health facility preadmission screening program described in this chapter and is notified under section 20 of this chapter that the individual's placement in a health facility is not appropriate;

the individual is not eligible for assistance under the federal Medicaid program (42 U.S.C. 1396 et seq.) for the payment of any part of the cost per diem provided to the individual in a part of a health facility ~~certified as an intermediate care facility~~ for one (1) year after the date of the individual's admission to the health facility.

SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 12-10-12-1; IC 12-10-12-34."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 208 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 2.

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